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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 40th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Wednesday, 5 December 1990, at 3.10 p.m.

Chairman: Mr. KOUZNETSOV

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ORGANIZATION OF WORK (continued)

1. At the invitation of the Chairman, Mr. Amani (Afghanistan) took a place at the Committee table.

2. Mr. AMANI (Afghanistan) said that he wished to provide some clarifications in reply to the note verbale which the Chairman of the Committee had sent to him on 30 November. Within the context of the national reconciliation policy that had been proclaimed in 1987, Afghanistan had considerably modified its domestic and foreign policies in order to establish a State subject to the rule of law and based on the principles of non-discrimination and equality between the sexes, respect for the right to an improvement in living conditions and in individual and collective freedoms, the right to a fair trial and freedom of expression and opinion and the right to political self-determination. His country was seeking to improve the family standard of living, ensure respect for the minorities and promote popular participation in the public affairs of Afghanistan, which should be governed by the majority. In the light of the Constitution, particularly articles 38, 40, 52-58, 122 and 123 thereof, which defined the role of political associations, recognized the right to freedom of opinion and established a Constitutional Council, the Afghan Parliament had undertaken to adopt legislation that would guarantee the exercise of those rights and help to bring about an improvement in the economic, cultural and social situation. Since that legislative process had not yet been completed, Afghanistan requested the Committee to allow it more time to complete the preparation of a detailed factual report faithfully reflecting the reforms that were being introduced.

3. Mr. TEXIER pointed out that the Committee had decided to consider the report of Afghanistan during the present year and had notified that decision, in a note verbale, to the representative of Afghanistan, who had indicated that difficulties were being encountered. No new report had been submitted to the Committee since the report of 1984. The Committee now had to decide whether it would consider that previous report in accordance with the procedure that it had adopted last year, or whether it would prefer to await a new comprehensive report that would be submitted to it next year.

4. The CHAIRMAN recalled that, chronologically, the Committee had first of all taken its decision and had subsequently agreed to hear the Ambassador of Afghanistan when the latter requested a hearing.

5. Mr. SIMMA expressed the view that the matter was too delicate to be settled immediately.

6. Mr. ALSTON thanked Mr. Amani for his explanations, which reflected a new will to enter into a dialogue with the Committee. The latter could either abide by its decision or settle the matter at a later date after giving it further thought.

7. Mr. NENEMAN shared the views expressed by Mr. Simma and Mr. Alston. He asked Mr. Amani to indicate whether the detailed report on which the Afghan authorities were working differed from that of 1984 and contained information concerning the application of all the articles of the Convention during the last two years, and also whether it would be submitted to the Committee at its next session, which would probably be held in November 1991.

8. Mr. MRATCHKOV thanked Mr. Amani for his explanations, while regretting the fact that they had not been transmitted to the Committee before it took its decision.

9. With regard to Mr. Neneman's question, he wished to know whether the report that was being prepared was entirely new or whether it dealt primarily with developments in the situation and the application of the Covenant since 1985, thereby supplementing the initial report. On the subject of the reply to be given to Afghanistan, he thought that the Committee should examine the situation carefully in a closed meeting before changing a decision that had already been taken.

10. Mr. SIMMA supported the comments made by Mr Neneman and Mr. Mratchkov. He felt that, before taking the matter further, the Committee should ascertain not only the date on which the Afghan Government intended to submit its report but also the content of that report. The report would have to be submitted early enough to be studied by the pre-sessional working group and translated into all the languages, which was unfortunately a very time-consuming process. It would also be necessary to establish whether the report should deal with the articles that had already been considered in the 1984 report or with all the articles of the Covenant. Although the Committee would obviously prefer to receive a full report, he felt that the Afghan Government should be entitled to determine the nature of the report. He recalled that the report of 1984 dealt with the application of articles 6-9 and that no report had since been submitted concerning articles 12-15. First of all, the Committee could ask the Afghan Government whether it intended to submit a comprehensive report on articles 1-15 before 1 August 1991. Subsequently, in the light of the reply, it could consider the question as a whole and take a decision in a public or closed meeting.

11. Mr. AMANI (Afghanistan) said that his country would be submitting a comprehensive report on the application of articles 1-15 before the end of June 1991. Afghanistan would respect the Committee's decision and its request for a postponement was merely a suggestion prompted by a desire to submit a detailed and accurate report.

12. The CHAIRMAN thanked Mr. Amani for the explanations that he had given to the Committee. He wished Afghanistan every success in its development endeavours. With regard to the consideration of the report, the Committee would inform him of its decision through the normal channels.

13. Mr. Amani (Afghanistan) withdrew.

CONSIDERATION OF REPORTS (agenda item 7)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Costa Rica (E/1990/5/Add.3) (continued)

14. At the invitation of the Chairman, Mr. Rhenan Segura (Costa Rica) took a place at the Committee table.

15. Mr. RHENAN SEGURA (Costa Rica) provided information concerning the activities of the National Centre for the Advancement of Women and the Family.

Costa Rica had endeavoured to promote the social changes needed for full and effective participation by women in the country's material and spiritual development. To that end, it had encouraged a new national approach, which had been stimulated by the activities of the recently established National Centre for the Advancement of Women and the Family. Continuing and sustained efforts were being made throughout the country to change mental attitudes. A qualitative change that had been observed four years ago had influenced the Centre's activities. Costa Rica had attempted to achieve the objectives of the Decade for Women through national development policies formulated by the Ministry of Planning and Political Economy, and also through sectoral operations undertaken by the Ministry of Culture, Youth and Sports. Training was regarded as one of the principal instruments to enable women, as both the beneficiaries and the initiators of development, to change their own situation and their environment. The purpose of training was to enable them to participate in decision-making and to teach them to pass on their knowledge to other women in order to create a "snowball" effect. Only training could enable women to achieve the goals of development, equality and peace, as well as those of the Decade, consisting in employment, health and education. Training would endow society with an infrastructure that would enable it to make the best use of its human resources.

16. In Costa Rica, training endeavours were seeking to bring about a change in attitudes and to provide women with the means to assume their responsibilities. During the period under review, 730 training activities had been organized for 7,800 beneficiaries in the country's six regions. Those activities had focused on the situation of women, the stimulation of awareness in regard to that situation, the organization of groups and production projects and the study of matters relating to health and legislation. Training had been given to members of numerous institutions concerned with women and also to local administrative officials and regional leaders of feminine organizations. A campaign had been undertaken to promote a new social image of women in the various sectors and to strengthen the family as the basic unit of social organization. Information concerning women and the family had been disseminated by various means, particularly the media, with a view to combating discrimination and inequalities. It had been decided to award an annual national prize for the best press, radio or televised report on women. A documentation centre containing more than 1,500 bibliographical documents and a video library was now open to the public at large. That centre, which had an active publication policy, had issued a large number of bulletins, brochures and press releases; it was encouraging the publication of articles in newspapers, distributing educative documents and disseminating articles as part of a campaign to promote equality between men and women. The national radio stations had broadcast more than 150 programmes on women, health, legislation, nutrition and the family. Video films, posters and short radio and televised promotional programmes had been produced and press conferences had been held.

17. The National Centre for the Advancement of Women and the Family was conducting a considerable amount of research work in order to promote effective participation by women in the social and economic life of the country. That research focused on the nature and extent of certain obstacles that prevented women from being fully integrated into the various areas of national activity. As part of those activities, the Centre had conducted surveys inter alia, on the situation of working women, violence against women in the home, young working women in the context of the crisis of the 1980s and

the situation of the Costa Rican woman. For carrying out those surveys, the Centre had an up-to-date streamlined and modern information system. Recently, it had implemented a programme of publications on the status of women in Latin America.

18. With respect to the right to work, he noted that unemployment had declined over the past five years from 6.2 per cent in 1986 to 4.6 per cent in 1990. Men were more affected by unemployment than women (2.9 per cent compared with 1.7 per cent in 1990), and 15 to 19 year-olds were the most seriously affected.

19. The technical and vocational training of adults was organized by the Instituto Nacional de Aprendizaje (National Apprenticeship Institute) and by the Universidad Estatal a Distancia (Higher Education Correspondence Programme). Concerning the technical training of women, the law concerning the promotion of the social equality of women provided that the National Apprenticeship Institute should set up a vocational training system for women and establish a unit for the vocational training of women, to which it should allocate at least 1 per cent of its annual budget. Furthermore, the University of Costa Rica, jointly with the Ministry of Labour and Social Security was carrying out a whole series of assistance programmes to create jobs, provide vocational training as well as assist the unemployed and migrant and seasonal workers. Lastly, the Instituto de Estudios Laborales (Institute of Labour Studies), which came under the University of Costa Rica gave training, inter alia, to trade union leaders.

20. Turning to the questions on the implementation of article 7 of the Covenant, he pointed out that the machinery used to determine minimum wages was intended to curb inflation while maintaining the purchasing power of the workers. Wages were therefore set once a year and readjusted in the light of the increase in the consumer price index. In the private sector, it was planned to determine wages on the basis of the increase in labour productivity. In that sector also, wages were set by the Consejo Nacional de Salarios (National Wages Council), which was composed of three representatives each from the private sector, the trade unions and the public sector. Public sector salaries were, however, fixed by the Comisión Negociadora del Sector Público (Public Sector Negotiation Commission), composed of representatives of the Ministries of Labour, Finance, Economic Affairs, the Presidency and the trade union confederations. As far as collective bargaining was concerned, it produced 240 agreements between 1980 and 1988.

21. With regard to the special labour protection granted to women and minors, the new law on the equality of women provided that the trade union organizations concerned and women's associations would have to be consulted about the working conditions of women employed in particularly dangerous, unhealthy or arduous work. Costa Rican legislation protected women who adopted children in the same way that it protected pregnant women or nursing mothers. Furthermore, the Labour Code prohibited night work for minors. It also prohibited persons between the ages of 12 and 15 from working more than 30 hours per week and persons between the ages of 15 to 18 from working more than 42 hours, to enable them to continue their schooling. There was a National Children's Board (Patronato Nacional de la Infancia) which monitored the working conditions of minors.

22. Regarding the system of industrial relations, Costa Rica had ratified ILO Conventions Nos. 87, 88 and 150. The right to form trade unions was written into the Constitution and the Labour Code. Trade unions operated in complete freedom, the only limitations imposed being those which were necessary for the maintenance of law and order and they could constitute federations and confederations and form international trade unions or join them. Some trade unions had recently accused the Government of encouraging a movement in enterprises called "Solidarity". The Government made it known that it was not supporting the movement and had proposed that the ILO should send two representatives to investigate. The right to strike was also recognized in Costa Rican legislation.

23. Turning to the question of the right to an adequate standard of living, he said that there was a Social Welfare Office in the Ministry of Labour whose main function was to improve the living standard and overall well-being of families, children and single mothers. The Office also provided advice and reconciliation services in respect of marital problems. Lastly, it co-ordinated the programme of assistance to families and minors.

24. With regard to the structure and functioning of the health care system, he recalled the provisions of article 73 of the Constitution. There were other provisions in that field, for example, the General Health Act, which provided that one of the essential duties of the State was to provide for the health of the population. The Social Security Fund was a public body that administered all the hospital centres in the country. Ninety-two per cent of the population was covered by that system, and the remaining 8 per cent by a special scheme.

25. In respect of the efforts to combat diseases, he recalled the first two articles of the General Health Act and article 65 of the Ministry of Labour and Social Security Organization Act. There was also a preventive medicine programme which in the past three years had yielded very good results. Almost all the contagious diseases such as malaria, leprosy or tuberculosis had been eradicated. Finally, a programme to combat AIDS and other contagious diseases was being executed.

26. Turning to the right to education, and more specifically the education system, he said that primary, pre-school and secondary education was compulsory and free of charge. It covered the six years of primary school and the first three years of secondary school. Although the last two years were not compulsory, over 85 per cent of the children completed their primary and secondary studies. In the field of higher education, there were four major universities in Costa Rica, including a technical university, which encompassed the regional centres throughout the country and the Universidad Estatal a Distancia (State Open University) for adults. Around 65 per cent of the students held scholarships. They could also request loans which were repayable on completion of their studies. Adult evening classes were also organized throughout the country. Minors could attend them provided they had obtained permission from the National Children's Centre and a certificate attesting that they were working. With regard to the curriculum, primary education covered basic disciplines such as literature, mathematics, history and civic education, as well as practical work such as sewing or cooking. A computer science programme had been taught successfully for three years. As a result of the law on the equality of women, all references to the inferiority of women had been deleted from school textbooks. The goal of

secondary education was to enable a child to acquire a general culture. Thus, the civic instruction classes were aimed at acquainting the children with the various international human rights instruments as well as the legal and institutional human rights machinery available to the Costa Rican Government in that field. On United Nations Day, which was celebrated as a school holiday, children debated the range of issues dealt with by the United Nations. In order to instil a sense of civic responsibility in the children, voting offices were set up in schools a week before the presidential elections to enable the children to elect the candidate of their choice. The programme was a far reaching one and had been in existence for five years. The International Organization for Migration had furthermore requested Costa Rica's assistance in introducing the programme in other Latin American countries. Lastly, the Government did its utmost to ensure that the entire population had access to pre-school, primary and secondary education and it provided assistance to persons, who lacked the financial resources, to pursue higher studies. The literacy rate was currently 94 per cent.

27. Concerning the implementation of article 15 of the Covenant, the Ministry of Culture had set up "cultural centres" in all the provinces and regions of the country to bring cultural activities within the reach of the whole population and not just of the inhabitants of the capital. The Ministry organized seminars on lyric poetry, literature and fine arts workshops. The National Theatre Company and the National Symphony Orchestra went on tours throughout the country. In respect of copyright, Costa Rica, with the assistance of WIPO had recently drafted a law on intellectual property and related rights and ratified the Berne Convention for the Protection of Literary and Artistic Works.

28. Mr. DAO (International Labour Organisation) drew the attention of the members of the Committee to the information on Costa Rica contained in the twelfth and thirteenth ILO reports on the progress made in achieving observance of the provisions of the Covenant.

29. With respect to article 6, Costa Rica had ratified Conventions Nos. 29 (Forced Labour), 105 (Abolition of Forced Labour), 111 (Discrimination (Employment and Occupation)) and 122 (Employment Policy).

30. In its observations on Convention No. 122, the Committee of Experts had noted the comments by the Costa Rican Confederation of Democratic Workers according to which the measures imposed by the IMF and the IBRD had resulted in a large reduction in social expenditure and consequently, a considerable deterioration in living conditions. In that connection, the Committee of Experts had noted that the Government had taken steps to promote employment and increase the wages of the most disadvantaged sectors and that the ILO was providing technical assistance under the Regional Employment Programme for Latin America and the Caribbean financed by UNDP. The Committee had requested information from the Costa Rican Government on the measures it had taken to comply with its monetary and financial undertakings and the impact of those measures on employment.

31. With respect to Convention No. 111 (Discrimination (Employment and Occupation)), the Committee of Experts had commented on the draft bill on real equality for women and had made suggestions on specific provisions which might be incorporated in the bill.

32. With respect to Convention No. 88 (Employment Service), the Committee of Experts had noted that three regional employment offices had been set up; it also noted the special attention given to the situation of refugees as well as ILO assistance in establishing a placement service.

33. With regard to article 7 of the Covenant, Costa Rica had ratified the instruments concerning remuneration, including the minimum wage, working hours and holidays with pay, occupational safety and health, in particular those regarding labour inspection and other instruments dealing with the employment of seafarers. In its comments, the Committee of Experts had requested further information on the measures for applying those instruments. In respect of Convention No. 131 (Minimum Wage-Fixing), the Committee of Experts had requested the Costa Rican Government to indicate the minimum wage rates currently applied in the private and public sectors.

34. In its comments on Convention No. 100 (Equal Remuneration), the Committee of Experts had requested information on the practical application of the equal remuneration principle, particularly in the case of remuneration higher than the minimum wage level, and on the results obtained by the application of the national post classification system (principle 2 of the Convention) as well as through collective agreements.

35. On the subject of article 8, he noted that Costa Rica had ratified ILO Conventions Nos. 87, 98, and 135 but not Convention No. 151 (Labour Relations (Public Service)). Referring to the question raised on that Convention in the list of issues to be taken up with Costa Rica (E/C.12/WG/1990/CRP.1/Rev.1), he added that under article 1, paragraph 1, Convention No. 151 applied to all public service employees only to the extent that more favourable conditions of other international labour Conventions were not applicable to them. Considering that Costa Rica had ratified Convention No. 87 (Freedom of Association and Protection of the Right to Organise), public service employees should normally benefit from the conditions set forth in the latter Convention since it was wider in scope than Convention No. 151.

36. Still on the subject of article 8, he said that he had taken note of the statement by the representative of Costa Rica concerning the movement called "Solidarity". He pointed out that the ILO Governing Body currently had before it the comments by the Committee of Experts on Conventions Nos. 87 and 98. With regard to Convention No. 87 (Freedom of Association and Protection of the Right to Organise), the Committee of Experts had requested the Government to provide information on the measures adopted in order to make it possible for foreign workers to have access to trade union functions, at least once a reasonable period of residence had been completed. In its comment on Convention No. 98 (Right to Organize and Collective Bargaining), the Committee had requested information on the adoption of specific provisions that expressly established means of recourse and penalties against anti-union discrimination and interference by employers in workers' organizations, as well as on the adoption of provisions concerning the right to collective bargaining of public servants who were not engaged in the administration of the State. With respect to Convention No. 135, concerning workers' representatives, the Committee of Experts had asked for information on the implementing measures taken.

37. Concerning article 9 of the Convention, he said that the Committee of Experts had referred, in connection with Conventions Nos. 102 and 130 on Social Security, to the question of reimbursement by the State of the employers' contributions which were due from the State (that question was among those raised in a representation made by several Costa Rican trade union organizations under article 24 of the ILO Constitution). The Committee of Experts had also requested further information on the nature of medical care, the granting of benefits in case of occupational accidents, family benefits and the calculation of periodical benefits.

38. Noting that Costa Rica had also ratified an important instrument, Convention No. 107 concerning Indigenous and Tribal Populations, he pointed out, that in its comments on the Convention the Committee of Experts had requested information on the development of indigenous communities, the efforts envisaged to provide land to those communities and the measures for the protection of those lands; the measures envisaged to extend the coverage of the social insurance fund and health services to indigenous populations and the bilingual and bicultural education and training programmes envisaged for those populations.

39. With respect to article 10 of the Convenant, he said that Costa Rica had not ratified ILO Conventions Nos. 3 and 103 concerning Maternity Protection. It had, however, ratified Convention No. 102 on Social Security (Minimum Standards) and had accepted inter alia the obligations concerning part VIII of the Convention, which dealt with maternity benefits. In that connection, he noted that in its comments on Convention No. 102, the Committee of Experts had noted with satisfaction that the relevant regulations had been amended in 1987 in order to provide for the granting of maternity benefits during a period of four months to the women covered by that regulation.

40. Regarding the protection of working children and in particular Convention No. 138, which had been ratified by Costa Rica, he pointed out that the Convention set the minimum age for admission to employment at 15. Concerning the Committee's question as to the minimum age for starting work and whether it was harmonized with the educational system, in the list of issues to be taken up (E/C.12/WG/1990/CP.1/Rev.1), he explained that according to article 2, paragraph 3, of Convention No. 138, the minimum age for work could not be lower than the age at which compulsory schooling ended. Still on the subject of Convention No. 138, the Committee of Experts had wished to have information on the measures adopted to implement fully the provisions of the articles concerning the minimum age for work in general and more specifically employment in unhealthy, arduous or dangerous work and in light work.

41. Mr. SIMMA said that he recognized that Costa Rica was an exemplary country, at both the regional and world levels, because of the efforts it made to ensure respect not only for civil and political rights but also for social, economic and cultural rights. He was all the more surprised as the written report presented by the State party was limited to a list of national constitutional and legislative provisions. In addition to the information already communicated by the Costa Rican delegation in its statement, he would welcome more information on the practical application of the rights set forth in the Covenant.

42. Turning first of all to articles 1 to 5 of the Covenant, he asked whether it was true that the particularly vulnerable groups of the population included

members of the Indian minority, of whom, according to his information, there were approximately 25,000 and members of the Afro-Caribbean minority. Since he knew that Costa Rica had enacted legislation to protect the Indian minority and to promote its development, he would like to know whether the rights of that minority and above all, its right to land ownership, were respected in practice and more specifically, to be apprised of the situation vis-à-vis the effective implementation of the legislative provisions protecting the Indian minority's rights in the context of the exploitation of the natural resources (water, timber, coal) of the regions it inhabited (reservations). He also asked to what extent that minority in actual fact had access to schooling, health care, social security and the like. In view of the fact that the Afro-Caribbean minority was concentrated in Puerto Limón, a province that was among the poorest and worst hit by unemployment, he wondered whether the Government had taken any specific measures to improve its condition.

43. With regard to article 6 of the Covenant, he referred to the national strike called in Costa Rica in October 1990 by the workers who considered that the sacrifices demanded of the population under the austerity programme had been unevenly distributed and asked what measures had been taken by the Government to ensure a more equitable distribution of the burden of adjustments among the population.

44. Regarding articles 6 to 9 of the Covenant he asked for further details on illegal employment and the real situation of clandestine foreign workers.

45. In connection with article 10 of the Covenant, he requested information on the application in practice of the legislative measures to protect children in the employment field and on the de facto protection of children against exploitation for purposes of prostitution.

46. Concerning article 11, he was surprised that absolutely no information had been provided on the application of the right to housing in Costa Rica's written report whereas under article 65 of the country's Constitution the Government was required to promote the construction of low-cost housing for working families. He would therefore like to have some information on the de facto application of the right to housing in Costa Rica. He would like to know in particular, whether evictions were carried out, what legal measures existed for the protection of tenants and whether they were applied in practice.

47. Recalling that article 13, paragraph 2 (a), of the Covenant provided that primary education should be compulsory and available free to all, he inquired whether there were "hidden" costs at that level of education (such as the obligation to purchase books or uniforms or to contribute to the cost of maintaining buildings) and whether those expenses could, therefore, explain the fact that the rather low illiteracy rate in Costa Rica (7 per cent) was again showing a tendency to rise.

48. Mr. ALVAREZ VITA also regretted the fact that the written report of Costa Rica was eminently juridical in character, that it had departed from the practice usually followed by States parties and had merely provided a series of legislative references, some of which were unrelated to the Covenant, and that it gave no information about the practical implementation of the provisions of the Covenant. Furthermore, the multidisciplinary approach, that should be taken in presenting information on the realization of

human rights, was completely lacking in the written report. Consequently, it was difficult for the Committee to ascertain the true situation regarding the application of economic, social and cultural rights in Costa Rica. He had therefore been obliged to submit many written questions and the representative of Costa Rica in turn had had to give a very lengthy oral statement. That time could have been saved if specific information had been given in the report or communicated in writing to the Committee to enable it to make a more thorough analysis. The report submitted did not correspond to the image commonly held of Costa Rica, which was an example of democracy in both Latin America and the world at large.

49. He knew Costa Rica well because he had stayed there on many occasions and had a fairly clear idea of the situation of economic, social and cultural rights in that country, but that had not really been reflected in the report submitted by the State party. Referring to a study of the Judiciary in Costa Rica, which contained a detailed picture of Costa Rican society, he said that the study explained that the most powerful economic groups in the country came from virtually one "family tree" which could be traced back to the arrival of the first Spanish settlers in Costa Rica and that over the past hundred years, the composition of the decision-making bodies of the Government had not really changed. He felt that those were the circumstances that might explain why democracy was well entrenched in civil and political life in Costa Rica but not in the country's economic life. While the economic disparities observed in Costa Rica were not as glaring as in other countries of Latin America if, for example, one compared the situation in central Costa Rica with the region of Puerto Limón where a large part of the black population lived, the contrast was striking because it was not in keeping with the democratic nature of the civil and political institutions of the country.

50. Having said that, however, he felt that while the delegation of Costa Rica had made a commendable effort in its statement to fill the gaps in the written report, it had none the less passed over such important aspects as the impact of the external debt and Costa Rica's traditional foreign dependence. Further, while the information supplied by the Costa Rican delegation showed that there was no explicit racial discrimination in Costa Rica, it was not known whether efforts were being made to eradicate the latent racism vis-à-vis national minority groups. In that respect, he considered that the indigenous minorities were obviously not accorded the same treatment as the Costa Ricans of European origin. Some form of racism might also be displayed towards certain groups of refugees who came from neighbouring countries, in particular those of darker skin.

51. In addition, the representative of Costa Rica had said that the average standard of living in his country was equivalent to that of a developing country, but it would also be helpful to ascertain the average living standard of a member of an indigenous group, for example, of a black person living in Puerto Limón province.

52. Turning to matters relating to individual articles in the Covenant, he said, in respect of article 8, that he found it difficult to understand why foreigners could not take part in trade union activities in Costa Rica. He found that restriction incompatible with the provisions of the Covenant. Regarding article 9, he noted that both the domestic legislation of Costa Rica and the international instruments to which the country had acceded established

the principle of equality of men and women and he inquired whether the father of new-born children was afforded the opportunity to take care of them or whether that right was only granted to the mother.

53. Lastly, in respect of article 11 of the Covenant, he said that, through the Secretariat, he would transmit to the Costa Rican delegation a list of issues raised by a non-governmental organization, namely, the Habitat International Coalition.

54. Mr. TEXIER, associating himself with the comments of previous speakers, and in particular those of Mr. Alvarez Vita said that fortunately, the advanced state of democracy in Costa Rica, its work to bring peace to the region and its important role in the area of human rights were known because the report presented by that country did not bring out those aspects very clearly. Admittedly, on reading the report, one realized that the legislation in force was generally good, but specific examples were sadly lacking. That clearly demonstrated the importance of adopting at the present session the draft guidelines prepared by Mr. Simma, in order to ensure that in future other States did not submit reports similar to that of Costa Rica. The oral statement by the Costa Rican delegation had enabled a clearer picture to be formed of the actual situation of economic, social and cultural rights in Costa Rica, but many points still needed to be clarified.

55. Quoting paragraph 3 of the report of Costa Rica (E/1990/5/Add.3) which stated that the report did not refer to court decisions or to rules of procedure, he pointed out that there were areas, for example those covered by articles 6-9 of the Covenant, where a knowledge of jurisprudence was very important. For example, although the legislation guaranteed good occupational health and security conditions, in order to have an idea of the conditions that really existed it was necessary to know how those rules were applied, what penalties were imposed in case of their non-observance and what procedure was followed by the judges in rendering a judgement in the case of a dispute.

56. Turning to article 8 of the Covenant, like Mr. Alvarez Vita, he was surprised that foreigners could not participate in trade union activity and would welcome further information on the subject. Referring to article 73 of the General Immigration and Aliens Act which was quoted in the report of Costa Rica (E/1990/5/Add.3, p. 6) he inquired whether there were many immigrants in Costa Rica, whether they came from neighbouring countries or from more distant ones and whether they came to Costa Rica only to seek work. He also asked whether there were many refugees in Costa Rica, what were their living conditions and whether they had access to employment.

57. With regard to article 6 of the Covenant, he asked what was the unemployment rate in Costa Rica and what specific measures were being taken by the Government to curb unemployment and, generally, to promote employment, having regard to the fact that article 56 of the Constitution guaranteed the right to work.

58. Concerning article 1 of the Labour Code of Costa Rica, he could not understand the reason for the reference in that article to "the Christian principle of social justice" (E/1990/5/Add.3, p. 10), because Costa Rica was a secular State and he would welcome an explanation.

59. As far as articles 10 and 12 of the Covenant were concerned, the report of Costa Rica gave virtually no information on the right to housing. He therefore asked what particular problems were encountered in that area, what was the proportion of owners and tenants on the one hand and the proportion of homeless on the other, in other words, what was the percentage of persons who had no accommodation or who were living in dwellings that were deemed inadequate, according to the commonly accepted standards (housing without electricity, running water and/or a household waste disposal system).

60. With respect to article 13, he asked whether the entire population of school age had access to primary education free of charge, as stated in paragraph 2 (a) of that article.

61. Lastly, in addition to the information supplied by the delegation of Costa Rica in its oral statement, he would like the Government of Costa Rica to send further written information to the Committee by its next session.

62. Mr. MRATCHKOV said that he was surprised that the report under consideration contained so many extracts from legislative texts - often the same texts - and it would therefore have sufficed to refer the Committee to the place in the text where they appeared for the first time. He found it most unfortunate that the report supplied so little information on the practical application of the provisions of the Covenant. The information provided orally by the Costa Rican delegation had to some extent filled that gap but he would have liked more information on a number of questions in order to be able to form a clear picture of the situation and the progress achieved in realizing the rights set forth in the Covenant.

63. The provisions of article 56 of the Constitution: "Work is a right of the individual and an obligation towards society" were often repeated in the report. What was the legal value of that obligation to work and was there a legal system governing dismissal? In his view, if such a system did not exist, the right to work was only a pious wish. Was there a system of labour inspection in Costa Rica to monitor the application of the laws? What exactly were its functions and what were the powers of inspectors? He drew the attention of the experts to the provisions of article 47 of the Ministry of Labour and Social Security Organization Act and said that he found it surprising that a Trade Union Office had been set up in that Ministry to "monitor trade union organizations": such an activity, in the legal sense of the word, surely constituted interference in the activities of trade unions which would be incompatible with the principle of the right of trade unions to function freely, stipulated in article 8, paragraph 1 (c) of the Covenant. He asked further what was the level of trade union membership and the structure of the trade union movement - did it have one or more forms?

64. Turning to the implementation of the provisions of article 10 of the Covenant, he asked for further information on the impediments accepted in law which would nullify a marriage contract (art. 177 of the Penal Code) and on the legal system governing divorce: which was the competent body to take decisions and what were the grounds for divorce under the law? Furthermore, what was the rate of divorce and how had it evolved? In respect of article 12, he wished to ascertain the size and geographical distribution of the health services: how many hospital beds were there and how many doctors per thousand inhabitants? Were some regions less well served than others?

Lastly, he noted that the report under consideration gave almost no information to enable a concrete assessment to be made of how the rights stipulated in article 15 of the Covenant were being implemented. Would the Costa Rican Government provide further information on the subject?

65. Mr. FOFANA said that the information given orally by the Costa Rican delegation, largely made up for the omissions in the report under consideration. However, in respect of articles 6 to 9 of the Covenant, the statement had not described how the employment and unemployment situation had developed since the report had been prepared. More information on that point would be welcome. To complete the questions asked by Mr. Mratchkov, Mr. Simma and Mr. Texier regarding the application of articles 10-12, he inquired what was the concept of the family in Costa Rica. What was the marriage rate in the country and how was the future of the children decided if the parents divorced? In respect of housing, was there a rent-control system and if so, what were its main features? Had any legislative measures been taken and any financial mechanisms set up to facilitate home ownership? With respect to the implementation of articles 13-15, he stated that Costa Rica was a country of high immigration, and asked how the children of immigrants were integrated into the educational system.

66. Mr. MUTERAHEJURU said that he thought that the report under consideration provided the Committee with information on the existing laws but did not enable it to assess the progress made in fulfilling the obligations contracted by Costa Rica under the Covenant. He drew attention to article 1 of the Labour Code, which specified that, the Code regulated the rights and obligations of employers and workers in their work relations "in accordance with the Christian principles of social justice". What exactly was meant by those "Christian principles" and how could such a concept be reconciled with the principle of non-discrimination established in the Costa Rican Constitution, which should normally take precedence over the Labour Code?

67. Article 51 of the Constitution stated that the family was entitled to the special protection of the State; would that differ from the protection of mothers and children covered in article 55? What constituted the special protection of the family? What steps had been taken to ensure that protection and what obstacles had the country encountered in imposing them? Article 87 of the Labour Code prohibited the employment of women and persons under 18 years of age for work which was unhealthy, arduous or represented a physical or moral danger and it referred to the provisions of article 199 of the Code which also seemed to include a derogation from the principle of the protection of women and children. However the text of article 199 did not appear anywhere in the report: what, therefore, was the precise scope of its provisions and what derogations could be made from them?

68. In respect of the application of article 15 of the Covenant, what was the relationship between the culture of the largest sector of the Costa Rican population and that of the indigenous minorities of the country: was there any interaction or integration or co-existence and independent development of one vis-à-vis the other? What was the size of the indigenous populations?

69. Mrs. JIMENEZ BUTRAGUEÑO said that she also would have liked the initial report of Costa Rica to refer to the difficulties encountered in implementing the provisions of the Covenant, as well as the measures taken or contemplated

*in order to try* and overcome them. Further information was therefore necessary to enable the Committee to assess the practical application of the rights set forth in the Covenant. For example, she would welcome further information on all the activities of the Social Welfare Office and of the National Centre for the Advancement of Women and the Family. Did the Centre not concern itself with the fathers and did the latter not participate in activities to assist their families?

70. In replying to the written questions of the Committee, the representative of Costa Rica had referred to a bill to issue a document to the indigenous people of the country who had no identity card. Was it intended that the indigenous people would not be issued with the same identity card as that issued to all other Costa Rican citizens and, if so, would such a measure not be discriminatory?

71. In its report, the Costa Rican Government had mentioned the Act Prohibiting Discrimination at Work, article 1 of which prohibited any kind of discrimination involving distinctions based on grounds of age etc. However, the international legal instruments did not appear to include age as a factor of discrimination. Did the Costa Rican courts ever have to pronounce themselves in cases of complaints of discrimination based on age, and had there been any appeals against their decisions on the subject? Was there any incompatility in Costa Rica between work and the payment of a retirment pension?

72. Mr. KONATE referred to article 19 of the Constitution, which stated inter alia that aliens were subject to the jurisdiction of the courts of justice and of the authorities of the Republic; they could have no recourse to diplomatic protection. Those provisions recalled the celebrated Calvo clause, which originated in Latin America and by which legal entities concluding contracts with a State, relinquished forthwith their right to appeal to the State of which they were nationals for diplomatic protection. Such provisions might perhaps be explained by historical phenomena peculiar to that continent. In any event, under international legal doctrine, diplomatic protection was not a right of the individual but one which came within the powers of the State of origin. That State took a sovereign decision to exercise or not to exercise that right in respect of its nationals. Did that fundamental provision of the Costa Rican Constitution really comply with international law and did it not encroach on the sovereign rights of States?

73. Article 89 of the Labour Code prohibited work for persons under 12 years of age yet allowed work during the daytime for persons over 12 and under 18, under certain conditions and in certain activities. Should one, therefore, conclude that in Costa Rica children could work from the age of 12 in violation of international standards? What, therefore, was the minimum age for work?

74. The CHAIRMAN said that the delegation of Costa Rica would answer the questions put by the members of the Committee at the following meeting.

75. Mr. Rhenan Segura (Costa Rica) withdrew.

ORGANIZATION OF WORK (continued)

76. Mr. ALSTON submitted a draft decision to the Committee concerning its consideration of the report scheduled for submission by Afghanistan. The text, which seemed to be acceptable to the experts whom he had been able to consult informally read:

> "The Committee, having taken note of the undertaking provided to it personally by the Permanent Representative of Afghanistan to the United Nations Office at Geneva, to the effect that a global report dealing with articles 1-15 of the Covenant would be submitted to it by 30 June 1991, at the latest, decides to consider that report at its sixth session. The Committee notes that in the event of the non-receipt of the report in question, it would, in accordance with its previous decision on this matter, take up at its sixth session the consideration of the report of Afghanistan already pending before it".

77. The CHAIRMAN said that he considered the proposal to be a very sensible one and that if there were no objections, he would take it that the Committee wished to adopt the draft decision.

78. The draft decision was adopted.

79. The CHAIRMAN requested the Secretariat to communicate the decision immediately to the Government of Afghanistan through its Permanent Representative in Geneva.

The meeting rose at 6.05 p.m.